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RACISM, RACIAL DISCRIMINATION, XENOPHOBIA AND ALL FORMS OF DISCRIMINATION

INDIGENOUS ISSUES

Written statement submitted by the International Indian Treaty Council, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement, which is circulated in accordance with Economic and Social Council resolution 1996/31.

[28 January 1999]

GE.99-11212 (E)

1. A fundamental purpose of the United Nations, stated in Article 1 (3) of the Charter, is to promote and encourage respect for human rights and fundamental freedoms for all without regard to race. From that inception, numerous United Nations studies, including studies on slavery and workers' rights, referred to the practice of racial discrimination as the basis for these and other violations of human rights. As a result the United Nations Declaration on the Elimination of All Forms of Racial Discrimination was proclaimed in 1963, and the International Convention on the Elimination of All Forms of Racial Discrimination was adopted in 1965.

2. Although the Declaration and Convention do not specifically refer to indigenous peoples, the same studies that gave rise to both the Declaration and the Convention itself did refer to blatant and prevalent discrimination against indigenous peoples. 1/ In 1971, a study to examine the problem of racial discrimination (E/CN.4/Sub.2/1982/2, para. 8) found that discrimination against indigenous peoples was so pervasive and so deep that a special study was required to examine the problem of racial discrimination against indigenous peoples. This led to the monumental Study on the Problem of Discrimination against Indigenous Populations by Special Rapporteur José R. Martínez Cobo. 2/

3. In response to the problem of discrimination against indigenous peoples, the Economic and Social Council established the Working Group on Indigenous Populations (WGIP) in 1982 (resolution 1982/34) to examine specifically the state of the human rights and fundamental freedoms of indigenous peoples and to give special attention to the evolution of standards concerning their rights.

4. In spite of this history of work on behalf of indigenous peoples by the United Nations and some of its specialized agencies, notably the International Labour Organization, the long and persistent history of discrimination against indigenous peoples, described by Mr. Martínez Cobo in the introduction to his final report as "discrimination, oppression and exploitation", continues to this day; it is not merely "historical".

5. Discrimination against indigenous peoples, as pointed out by numerous studies, including that of Mr. Martínez Cobo, grinds with the gears of exploitation and economic domination. Not only slavery and forced labour continue to plague indigenous peoples; so do massive theft of lands, forced and often violent removal from their lands and territories, exploitation of their resources and ruination of their environment. Indigenous peoples continue to suffer economically and militarily enforced assimilation and the resultant loss of culture and language.

6. Discrimination against indigenous peoples, once justified by early colonists as a religious necessity, is now justified as a necessity for development and progress. The means of discrimination - genocide, forced removal, starvation and economic slavery and exploitation - remain the same. Forced removal itself, defined as a crime in Additional Protocol II to the Geneva Conventions, prohibited by that same universal standard in time of war and civil conflict (as is the destruction of sites of religious significance), is today justified in the name of development.

7. It is no coincidence that development is often justified using racist rationales against those who continue their traditional lives on their traditional lands and territories. "If indigenous populations are incapable of development then it is the duty of someone else, normally the State, to do it for them." "If indigenous populations do not possess or are incapable of the necessary skills for the proper exploitation of their own resources, then others shall have to do it without them."

8. Yet, as pointed out in numerous publications and studies, 80 per cent of the world's biodiversity is found on indigenous lands. And the developed world has little if any remaining resources left. This is the basis of discrimination against indigenous peoples. Just as the beginning of the colonial period justified its excesses as divinely inspired, the destruction of indigenous peoples and the destruction of Sacred Mother Earth's remaining resources are today justified in the name of the national development and so-called free trade.

9. It can be said that the grossest and most massive violations of the human rights and fundamental freedoms of indigenous peoples are based on the continuing practice of a profound and persistent racial discrimination. It has been said that human rights violations, particularly against indigenous peoples, precede development.

10. The mandate of the WGIP includes the charge that the WGIP particularly bear in mind the conclusions and recommendations of the Martínez Cobo study. In his final conclusions and recommendations, Mr. Martínez Cobo found that the right of self-determination is the fundamental condition for indigenous peoples to enjoy their fundamental rights and determine their futures, and at the same time develop and transmit their cultures to future generations (and he used the word "peoples" without qualification). 3/ It must be noted that numerous studies published by the WGIP since its formation in 1982 - too many to cite herein - many written by the excellent Chairwoman and expert Mrs. Daes and, most recently, by Mr. Miguel Alfonso Martínez, have come to the same conclusion, directly or indirectly.

11. In 1995, the WGIP, pursuant to its mandate, forwarded to the Sub-Commission, and to the Commission, the long-awaited, long-discussed Draft declaration on the rights of indigenous peoples. And as also required by its mandate, the WGIP took into account, over a 12-year period, the aspirations of indigenous peoples reflected by thousands of their representatives from around the world.

12. Yet the open-ended working group established by the Commission to study the draft persistently refuses to recognize that indigenous peoples are indeed "peoples", with all that the word implies in well-established international law. Some continue to insist, in the face of numerous United Nations documents that inherently differentiate between the rights of peoples and the rights of States (including the Declaration on the Right of Peoples to Peace and the Charter itself), that the right of self-determination is reserved only for States.

13. This persistent refusal to recognize indigenous peoples as "peoples" is being perceived by many as based upon the deeply engrained racial

discrimination against indigenous peoples so well studied by the United Nations. To many indigenous participants at the inter-sessional working group this denial of the rights of "peoples" to indigenous peoples sounds too much like the early colonists' religious and racial rationales. For to tell an individual that a particular human right does not apply to him or her is to say that he or she is somehow lacking in the requisite humanity. To tell a people that they do not qualify for the human rights of "peoples" produces the same result. It is an equal affront to their human dignity.

14. Lamentably, as documented by the United Nations itself, racist rationales for exploitation persist to this day, in every society of every State with indigenous populations. And there can be no doubt that racial discrimination continues to be a persistent condition in the daily existence of indigenous peoples throughout the world. One brief example: the IITC has received documentation from the local indigenous community stating that in the municipality of Pahuatian del Valle, Puebla, Mexico, the Nañhu indigenous community presented a candidate for the alcaldía (mayoralty) election held on 8 November 1998. During the course of the election, the candidate, Mr. Martiniano Santos Trinidad, was grossly discriminated against and the community defamed by the local agents and candidates of the ruling party of Mexico, the PRI.

15. Throughout the campaign period, statements were made and published that indigenous persons are not capable of governance and are incapable of meeting the demands of electoral office. The local Catholic priest is alleged to have told his parishioners that if the indigenous candidate won, people would lose their lands, that all of the elderly would be killed and that the Bible would be burned.

16. What is most disturbing is not that such things should be said, but that they be said with the expectation that they would be believed. Such is the depth of discrimination against indigenous peoples. Can it be said that those who govern are immune from such attitudes, as prevalent and as persistent as these attitudes are within their own societies?

17. The IITC would respectfully urge the members of the Commission to closely and in good faith examine the basis of their opposition to the recognition of indigenous peoples as "peoples", with all that the term implies in international law, since this same human right and fundamental freedom is apparently applicable to non-indigenous "peoples". We urge this examination lest the United Nations be perceived as itself fallen victim to the evil that it has been so profoundly studied and so long condemned.

Notes

1/ See e.g.: two reports of the ad hoc committee appointed by the ecretary-General pursuant to Economic and Social Council resolution 238 (IX) f 20 July 1949, final report of the ad hoc committee on forced labour stablished by ECOSOC resolution 350 (XII) 19 March 1951, leading to LO Convention No. 29 on Forced Labour.

2/ The first report was submitted in 1981 (EC/CN.4/Sub.2/476); the tudy in five volumes was completed in 1986 (E/CN.4/Sub.2/1986/7 and Add.1-4). ddendum 4 containing the conclusions and recommendations was published as a nited Nations publication (Sales No. E.86.XIV.3).

3/ Ibid., addendum 4, paragraph 269.

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